THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, the 16th day of July,2007

W.P.No.10379 of 1998

Between:-

Andhra Pradesh State Police
Housing Corporation Ltd.,
Hyderabad-500 004 rep.
by its Managing Director & another … Petitioners

and

The Industrial Tribunal-cum-
Labour Court, Anantapur
and another … Respondents

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W.P.No.10379 of 1998

ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Order dated 12-12-1997 made in M.P.No.99 of 1994 on the file of Industrial Tribunal-cum-Labour Court, Anantapur and to quash the same as arbitrary and illegal.

Heard both sides.

It appears, 2nd respondent-workman filed M.P.No.99 of 1994 under Section 33-C(2) of the Industrial Disputes Act,1947 (for short 'the Act') to direct the petitioners herein to pay an amount of Rs.83,700/- towards difference of wages. According to the 2nd respondent, he joined as a Night Watchman on 1-11-1984 in the Office of the Executive Engineer, A.P. Police Housing Corporation, Cuddapah and he is entitled for minimum pay scale of the last grade Night Watchman, but he was paid only Rs.450/- per month from 1-11-1984 to 30-10-1988 and at Rs.600/- per month from 1-11-1988 till 31-1-1994.

There is no necessity of going into all the details. It is suffice to notice, on what basis the said petition was allowed. It was held by the Tribunal as under:

> ".....It is a fact that although the petitioner was appointed as Watchman on NMR basis, the respondent has not regularized his services till now. This is in violation of G.O.Ms.No.212, Finance & Planning (FWFC.III) Department, dated 22-4-1994 (Ex.W1). As per the terms of Ex.W1,the petitioner was entitled for regularization from the date of completion of 5 years of service. Therefore, the petitioner should not suffer for the consequences for failure on the part of the first respondent to comply the directions in G.O. – Ex.W1. Had the

> service of the petitioner been regularized as per the terms of Ex.W1, the petitioner would have got the minimum scale from the date of such regularization. Therefore, irrespective of the regularization, I am of the opinion that the petitioner is entitled for the minimum scale from the date of completion of 5 years of service as NMR Watchman. Learned counsel for the petitioner fairly concedes that he will accept the scales in the posts of NMR watchmen and the minimum scale and also the difference of pay as contended by the first respondent. Hence, in the circumstances, I feel it would meet the ends of justice, if I direct the respondents 1 and 2 claim as per rules and pay to the petitioner the difference of wages from the date of completion of 5 years service as NMR Watchman. Accordingly, the points are answered."

In my opinion, the said findings of the Tribunal are not only erroneous but also perverse. It is none of the business of the Tribunal to go into the aspects, whether the workman was entitled for the benefits under G.O.Ms.No.212, dated 22-4-1994 and also entitled for regularization and whether the workman was entitled for full salary from the date of completion of five years of service as per the said G.O. It is very interesting to notice that the Tribunal has observed that since the services of the workman were not regularized as required under G.O.Ms.No.212, dated 22-4-1994 immediately after completion of five years, he is entitled for difference of wages treating that he has been put on regular time scale. As stated above, this finding of the Tribunal is erroneous, apart from being perverse. G.O.Ms.No.212, dated 22-4-1994 requires many a criteria for the purpose of regularization of services of an employee. The Tribunal could not have taken up this issue and decide on its own notions. The impugned Order is, therefore, contrary to law and as such, it is liable to be set aside and is accordingly, set aside.

The Writ Petition is allowed. No order as to costs.

16-7-2007

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